

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

AUBREY J. WILLIAMS,

Plaintiff,

v.

GARTH PARKER, *et al.*,

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 5:19-CV-00100-RWS-CMC

ORDER

Plaintiff Aubrey Williams, an inmate proceeding *pro se*, filed the above-styled and numbered civil action complaining of alleged violations of his constitutional rights. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Williams complained of deliberate indifference to his serious medical needs in that a number of restrictions he had received after receiving heart surgery in 2016 were removed by medical personnel in 2019. Defendants filed a motion to dismiss (Docket No. 20), to which Williams did not respond.

After review of the pleadings, the Magistrate Judge issued a Report recommending the motion to dismiss be granted and the lawsuit dismissed. Docket No. 26. Williams filed objections (Docket No. 27) setting out the facts of his 2016 heart surgery and stating that the removal of his restrictions showed that medical personnel were not taking him seriously; however, this assertion at best sets out a negligence claim and falls short of stating a claim for deliberate indifference to serious medical needs. *Gobert v. Caldwell*, 463 F.3d 339, 346 (5th Cir. 2006) (unsuccessful medical treatment, acts of negligence, or medical malpractice do not constitute deliberate indifference). The Magistrate Judge correctly determined that Williams failed to state a claim for

deliberate indifference to his serious medical needs.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which Williams objected. *See* 28 U.S.C. § 636(b)(1) (District Judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). The Court has determined that the Report of the Magistrate Judge is correct and Williams's objections are without merit. It is accordingly

ORDERED that Williams's objections are overruled and the Report of the Magistrate Judge (Docket No. 26) is **ADOPTED** as the opinion of the Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted.

So ORDERED and SIGNED this 4th day of August, 2021.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE